

- 766 by his relatives. For the feasts during the mourning at a chief's death the food is acquired by institutionalized pillage (*cipinimbe*).
 661 The villagers in a chiefdom are often first informed of the death of a chief by the appearance of men from his village. These men are by custom allowed to take from a village any article of food they can find—flour, a goat, some chickens, prepared relish, or whatever is lying around in the village. The owners of the food may not charge them with theft. This food is used in the funeral feast. The excesses to which the chief's men may go became circumscribed after the White conquest. Previously, almost any crime short of murder could be committed under the guise of *cipinimbe*. More recently, owing to Government opposition, it has been restricted to the taking of smaller articles of food, such as flour and chickens. Some people are beginning to object even to this. The chief's funeral is a public affair and all his subjects may attend it. The effect of the *cipinimbe* is to bring together enough food for the chief's funeral feast. Here, as before, the chief's men may not cross the boundary for fear of reprisals, and the effect is to impose a levy in an informal way over most of the villages in the chief's area.

THE CHIEF AS A SYMBOL OF UNITY

- 643 The chief is a representative of his people and it is his particular duty to ensure their welfare and that of the chiefdom as a whole. His symbolic representation of the unity of his people is brought out clearly by his right to fines in cases involving bloodshed and arson. Strife and division in a chiefdom in the old days were likely to end in spilt blood and burnt huts so that the Yao associate bloodshed and hut-burning with dissension within the chiefdom.
 579
 684 Most other offences are against the individual and not the chiefdom as a whole: the case is brought to the chief so that
 685 compensation may be awarded. Adultery and theft thus are definitely civil offences. Nowadays, a fine is imposed, but this is seen to be a White innovation, and the money from it is looked upon as 'Boma' money.¹ In disputes where blood has been shed, however, the chief is entitled to fine the guilty party on his own account. The chief is said to be 'blinded' by the
 682
 683 blood and a payment must be made to him before he may 'see'

¹ I.e. Government money.

The Composition of Modern Chiefdoms

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again. In the past, disputes hinging on murder had this aspect, though they were usually settled by a feud. Nowadays, of course, all murder cases are lifted altogether out of the hands of the chief, but the special fine for bloodshed is still levied in cases of assault. When a man is convicted of assault in the chief's court he will have to pay three separate amounts: one to the victim as compensation, one as a fine to the Native Treasury, and one to the chief 'so that he may see again'.

A similar provision applies to cases of arson. When a case is brought to the chief because a man has burnt another's hut, the chief will say that the guilty man has 'brought a torch into his country'. The man convicted of arson will have to pay a special fine to the chief in the same way as the man who caused bloodshed. The association of the unity of the chiefdom with fire probably has some place in the attitude of the chief here. People who have come to a chiefdom as strangers are said to have come to 'seek the chief's fire',¹ and all the fires in the chiefdom are supposed to have been kindled from one flame. This expresses the unity of the chiefdom: the burning of the hut, therefore, symbolizes the introduction of discordant elements, as well as being a serious crime in itself.

THE CHIEF'S JUDICIAL FUNCTIONS

It is clear from MacDonald's writings that in pre-White days the chief settled most of the serious disputes in his chiefdom. Nowadays, this function of the chief has been given legal sanction under the Native Courts' Ordinance of 1933. 'A' grade courts have the power of imposing fines not exceeding £5, or 6 months' imprisonment and 12 strokes whipping; and 'B' grade courts may impose fines not exceeding £1 and imprisonment including hard labour not exceeding one month, but not corporal punishment. The Native Authorities, Jalasi, Nyambi, Kawinga and Liwonde, all have 'A' courts; the Subordinate Native Authorities, Chikweo, Ngokwe, Chiwalo, Chamba, Mposa, Mlomba, Stora, have 'B' courts. Only a certain proportion of disputes is brought for trial in these Native Authority courts. This is because, firstly, the Administration does not admit the legality of some disputes. Most of these centre on charges of witchcraft,

¹ A similar view of fire in the village context is discussed in Chap. V, p. 112.

621 identity of villages more clearly seen than in the arguments that
 423 arise over rights over waterholes. These are usually dug next to
 a stream or a marsh, or in some other place where the water will
 percolate into them. The physical labour of digging a waterhole
 establishes the rights to it, and a village retains these rights if at
 some time in the past any of its members had dug it.

621 In normal years, and of course during the rainy season, there
 423 is enough water for all and no friction arises, but in drought
 years difficulties arise. Friction between Nampeya and Ciku-
 wita arose in this way in 1933.

622 During the dry season the waterholes that were normally used were
 drying up and the people of Nampeya decided to open up a disused
 one. When Cikuwita's people saw Nampeya's people using it they
 came to use it too. Nampeya's women saw this and told the other
 people they had no right to use the waterhole. Words passed between
 them and eventually there was a tussle between the two groups, during
 which a waterjar of one of Cikuwita's women was broken. Ciku-
 wita's women said they would take the case up to Ntibwilibwi, a
 headman of local importance, and when they returned to their village
 they complained to their headman who took the complaint to
 Ntibwilibwi. He sent a message to Nampeya to arrange a date on
 which the dispute might be settled. On that day the members of
 the two villages gathered at Ntibwilibwi's hut. The dispute was
 settled amicably: the person who broke the waterjar was ordered
 to take a chicken and give it to the owner of the jar, and Cikuwita
 was told to gather his people the next day and make them dig a
 waterhole of their own.

The villagers in each of these situations had acted with regard
 to their fellows primarily as members of villages. They had
 seen themselves as members of corporate groups and had inter-
 acted as such. In the dispute in which the jar was broken, the
 individual responsibility was fixed and compensation awarded,
 but at the same time the village headman was instructed on
 behalf of his villagers to make a new well and thereby ensure
 peace in the future. In all these disputes, however, the headman
 had appeared as the responsible representative of his village.

The Lineage Framework of Villages

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the arbitrators awarded 30s. compensation to be paid by Cilimba to Cikoja, less 5s. owing. This money was to be paid to Ayesi in compensation for the loss of her baby. Ayesi, however, refused to accept the money because she said she wanted to have her baby. The matter now became an intra-segment affair and Cikoja, Amidu, Kanyenga and Kaifa (F36), the son of Ayesi, with Bt. Amisa had a meeting on what to do. Ayesi was quite adamant about it. There was nothing to do but to drop the matter, and the state of tension between the segments remained as it was before.

The next incident occurred in 1943. Mpulula, the husband of Bt. Amisa, had some goats. One day two of them strayed on to the verandah of Bt. Madi's hut. Bt. Madi (F10) was the daughter of Asuna (F2) and a member of the senior lineage segment. One of the goats nosed its way into a basket of flour that was lying under the verandah and started to eat it. Bt. Madi came out and picked up a log that was lying nearby and threw it at the goat. It broke the goat's leg and the goat had to be destroyed. The owner, Mpulula, who was watching at that moment immediately rebuked the woman. He went and reported the matter to Cikoja and he sent a message to Mpulula's marriage surety who sent back to say that they would meet at Chiwalo's hut the following morning. The arbitrator in the case finally decided that the correct action should have been to take the goat to the owner and to lay a complaint against him. As it was he had to award compensation of 30s. to be paid to the owner of the goat. Mpulula, however, refused to take the money. He argued that although the goat was his, so was the offender.¹ He said that he was afraid of sorcery so he would take a token amount of 3s. only. Cikoja gave him this.²

A few months later the eldest child of Bt. Bwana Isa (F16) suddenly fell ill and died.³ Kanyenga, Kaifa and Msusa went to the diviner. Kaifa, the son of Ayesi, went as the headman's representative. Kanyenga went as the warden of the sorority-group, i.e. the child's mother's brother. Msusa was the marriage surety of the child's father. Kanyenga consulted the diviner who indicated that Kanyenga's mother Bt. Amisa was responsible but that she was not a sorceress. Sorcery, he said, was introduced by an unknown person who was using Bt. Amisa's grumbling as a screen. Kanyenga refused to accept the finding of the diviner, saying that his mother had never been 'caught'

¹ His wife's collateral sister's child he also calls 'my child'.

² Mpulula is a stranger in the village and in this situation Cikoja represents both segments to Mpulula, even though the senior segment is guilty.

³ Sudden illness, called *chikoso* or 'the hammer', is believed to be without a doubt due to sorcery.

THE WAYAO OF NYARALAND

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for witchcraft were carried out by strangling with a piece of calico at a place appointed for the purpose some miles from the chief's village. [674]
[696]

There was no case against a man who seduced an unbetrothed girl, the latter being considered entirely at fault. [684]

After divorce, the children always remained with the mother. The man left his wife after the case, saying, "I will take my spear and some of the goats and chickens, but the children will always know their father." [586]

Murder was a question of compensation to the deceased's relatives and was not punished by death. [682]

Stealing was a serious offence but many who were found guilty were rather despised than punished. The thief with the stolen goods tied about his body but otherwise stripped naked would be driven through the village and prodded with sticks to the sound of drums and hoots of derision. Most crimes, however, might be punished by exacting compensation. Payment took the form of goods or slaves. In the case of murder, the accused might have to pay several slaves to the deceased's relatives, and in addition, a fine to the chief for spilling blood, consisting perhaps of one slave. The amount of compensation expected was mentioned by the plaintiff in the case. One of the expressions used was, "My compensation must cover an ant hill," meaning enough slaves, standing hand in hand, to surround an ant hill; ant hills in this country are sometimes very big. If a man had no slaves, he would send his relatives or he himself might be forced to become the slave of the plaintiff. There is a saying about this practice: [685] ●

Chikweli chikweli wakile wakile

The monkey they tied (with) tail his (own).

[539]

Slaves passed over to a man in payment for crime became free men; they were an addition to the village and might even be adopted in place of a murdered individual. [567]

When compensation was made by the defendant to the plaintiff, the latter always returned some part of it as a sign that friendship was again established.

Goods or money received in compensation for murder, i.e. blood money, might not go for the purchase of food or clothing. Detection of a guilty party by means of magic and proof of guilt or otherwise by ordeal poison are dealt with elsewhere.

Bluffing anyone into giving something for nothing, obtaining goods by false pretence, was not considered a crime, as anyone was "fair game." For instance, a party of youths would waylay a man with a load of fish, saying they had been ordered by their headman to commandeer it. If the man parted with his fish, so much the worse for him; if he showed fight, he was respected and friendship made with a give-and-take of fish and snuff. Such bluffing is called *hulga wame*, "to eat with them." To add to their appearance of bona fide, the party might have secretly borrowed some well-known article belonging to their headman. 674